

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

ELAINE MOHLER,

Plaintiff,

v.

AIR & LIQUID SYSTEMS CORPORATION,

et al.,

Defendants.

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Case No. 3:13-cv-1221-DGW-SCW

**ORDER**

**WILKERSON, Magistrate Judge:**

On June 13, 2014, a hearing was held on the pending motions in this matter:

1. Motion for More Definite Statement filed on December 2, 2013 by Georgia-Pacific Corporation, Hollingsworth & Vose Company, Industrial Holdings Corporation, Ingersoll-Rand Company, Meadwestvaco Corporation, Trane US, Inc., and Velan Valve Corporation (Doc. 20).
2. Motions to Dismiss Count IX filed by Zurn Industries, LLC (Doc. 87), Weil McLain (Doc. 91), RIC-WIL, Inc. (Doc. 95), Joy Technologies, Inc. (Doc. 99), Greene Tweed & Company (Doc. 103), Gardner Denver, Inc. (Doc. 106), Foster Wheeler Energy Corporation (Doc. 110), BW/IP, Inc. (Doc. 114), Aurora Pump Company (Doc. 118), ConocoPhillips Company (Doc. 149), The Fairbanks Company (Doc. 150), Imo Industries, Inc. (Doc. 151), Shell Chemical Company, Shell Oil Company (Doc. 169), Dap, Inc. (Doc. 352), and Rogers Corporation (Doc. 355).

3. Motion to have all Counterclaims Deemed Filed and Answered Pursuant to F.R.C.P. 5(C)(1)(B), Alternatively Motion to Continue Deadlines to Answer and File Counterclaims filed by Union Carbide Corporation on March 25, 2014 (Doc. 219); and the Motion for Joinder thereto filed by CBS Corporation on March 28, 2014 (Doc. 222).

For the reasons set forth at the hearing and below:

1. The Motion for More Definite Statement (Doc. 20) is **MOOT**.
2. The Motions to Dismiss Count IX are **GRANTED IN PART** (Docs. 87, 91, 99, 103, 106, 110, 149, 151, 169, 352, 355) and found as **MOOT** (Docs. 95, 114, 118).
3. The Motion to have all Counterclaims Deemed Filed and Answered (Doc. 219) is **TAKEN UNDER ADVISEMENT** and the Motion for Joinder is **GRANTED** (Doc. 222).

#### **MOTION FOR MORE DEFINITE STATEMENT (DOC. 20)**

Defendants represented at the hearing that this motion is withdrawn as to Georgia-Pacific Corporation, Ingersoll-Rand Company, Trane US, Inc. and Velan Valve Corporation. The remaining Defendants, Hollingsworth & Vose Company, Industrial Holdings Corporation, and Meadwestvaco Corporation, are subject to stipulations of dismissal (Docs. 317, 318, 320).<sup>1</sup> This Motion is accordingly found as **MOOT**.

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<sup>1</sup> As noted in the Scheduling Order, the parties have until June 23, 2014 to object to any stipulation of dismissal that has already been filed. To the extent that a party does object to a stipulation that is relevant to the motions ruled on by this Order, the Court will reconsider the rulings upon motion of a party.

**THE MOTIONS TO DISMISS COUNT IX**  
**(DOCS. 87, 91, 95, 99, 103, 106, 110, 114, 118, 149, 150, 151, 169, 352, 355)**

Defendants argue that because Plaintiff has asserted claims under Illinois' Wrongful Death Statute, she is "precluded from bringing a loss of consortium claim as an additional remedy." Plaintiff argues in response that loss of consortium "is an element of Plaintiff's damages" and not a "standalone pleading."

Plaintiff has stipulated to dismiss Defendants RIC-WIL, Inc., BW/IP, Inc., Aurora Pump Company, and Rogers Corporation (Docs. 307, 312, 322, 360, 373 (duplicate)), so their Motions to Dismiss (Docs. 95, 114, 118, and 355) are **DENIED AS MOOT**. The remainder of these motions (Docs. 87, 91, 99, 103, 106, 110, 149, 150, 151, 169, and 352) are **GRANTED IN PART**. Count IX (loss of consortium) is **DISMISSED** to the extent that it is asserting an independent and/or separate loss of consortium claim. However, Plaintiff is nonetheless entitled to recover damages for loss of consortium under Illinois' Wrongful Death Act. *See McClain v. Owens-Corning Fiberglas Corp.*, 139 F.3d 1124 (7th Cir. 1998) (citing *Ellis v. Willis*, 442 N.E.2d 163, 168 (Ill. 1982)).

**IT IS SO ORDERED.**

**DATED: June 20, 2014**

**DONALD G. WILKERSON**  
**United States Magistrate Judge**